

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

THOMAS FALCON SUTHERLAND,

Defendant.

CR 18-55-GF-BMM-JTJ

**FINDINGS AND  
RECOMMENDATIONS**

**I. Synopsis**

Defendant Thomas Falcon Sutherland (Sutherland) has been accused of violating the conditions of his supervised release. Sutherland admitted all of the alleged violations. Sutherland's supervised release should be revoked. Sutherland should be placed in custody for 3 months, with 21 months of supervised release to follow. Sutherland should serve the first 60 days of supervised release in a secure inpatient substance abuse treatment facility as directed by his probation officer.

**II. Status**

Sutherland pleaded guilty to Assault Resulting in Serious Bodily Injury on September 11, 2018. (Doc. 18). The Court sentenced Sutherland to 27 months of custody, followed by 2 years of supervised release. (Doc. 29). Sutherland's

current term of supervised release began on July 16, 2020. (Doc. 33 at 1).

### **Petition**

The United States Probation Office filed a Petition on August 26, 2020, requesting that the Court revoke Sutherland's supervised release. (Doc. 33). The Petition alleged that Sutherland had violated the conditions of his supervised release: 1) by failing to report for substance abuse testing; 2) by consuming alcohol; and 3) by using methamphetamine.

### **Initial appearance**

Sutherland appeared before the undersigned for his initial appearance on September 9, 2020. Sutherland was represented by counsel. Sutherland stated that he had read the petition and that he understood the allegations. Sutherland waived his right to a preliminary hearing. The parties consented to proceed with the revocation hearing before the undersigned.

### **Revocation hearing**

The Court conducted a revocation hearing on September 9, 2020. Sutherland admitted that he had violated the conditions of his supervised release: 1) by failing to report for substance abuse testing; 2) by consuming alcohol; and 3) by using methamphetamine. The violations are serious and warrant revocation of Sutherland's supervised release.

Sutherland's violations are Grade C violations. Sutherland's criminal history category is II. Sutherland's underlying offense is a Class B felony. Sutherland could be incarcerated for up to 24 months. Sutherland could be ordered to remain on supervised release for up to 24 months, less any custody time imposed. The United States Sentencing Guidelines call for a term of custody of 4 to 10 months.

### **III. Analysis**

Sutherland's supervised release should be revoked. Sutherland should be incarcerated for 3 months, with 21 months of supervised release to follow. Sutherland should serve the first 60 days of supervised release in a secure inpatient substance abuse treatment facility as directed by his probation officer. This sentence is sufficient but not greater than necessary.

### **IV. Conclusion**

The Court informed Sutherland that the above sentence would be recommended to United States District Judge Brian Morris. The Court also informed Sutherland of his right to object to these Findings and Recommendations within 14 days of their issuance. The Court explained to Sutherland that Judge Morris would consider a timely objection before making a final determination on whether to revoke his supervised release and what, if any, sanction to impose.

The Court **FINDS:**

That Thomas Falcon Sutherland violated the conditions of his supervised release: by failing to report for substance abuse testing; by consuming alcohol; and by using methamphetamine.

The Court **RECOMMENDS:**

That the District Court revoke Sutherland's supervised release and commit Sutherland to the custody of the United States Bureau of Prisons for 3 months, with 21 months of supervised release to follow. Sutherland should serve the first 60 days of supervised release in a secure inpatient substance abuse treatment facility as directed by his probation officer.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS AND  
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO OBJECT**

The parties may serve and file written objections to the Findings and Recommendations within 14 days of their entry, as indicated on the Notice of Electronic Filing. 28 U.S.C. § 636(b)(1). A United States district court judge will make a de novo determination regarding any portion of the Findings and Recommendations to which objection is made. The district court judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district court judge, and may waive the right to appear and allocute before a district court

judge.

DATED this 14th day of September, 2020.



John Johnston  
United States Magistrate Judge